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10/002,759	10/31/2001	Robert A. Lieberman	IOS 00-236	4294

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EXAMINER

CROSLAND, DONNIE L

ART UNIT PAPER NUMBER

2632

DATE MAILED: 06/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/002,759

Applicant(s)

LIEBERMAN ET AL.

Examiner

DONNIE L. CROSLAND

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1-6, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, last two lines, the phrase "the qualitative determination" has no antecedent basis.

In claim 3, line 5, the language "for computing status change indications" lacks structure for carrying out the function.

In claim 10, the phrase "said fusion device" has no antecedent basis

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-6 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Powers.

Powers a surveillance and status change display system (figure 1) that includes plural sensors 42, 44, and 46 positioned at remote locations, a field sensing unit in the form of remote logger 14 that includes means in the form of logger controller 50 which compares present status indications with next prior status indications for computing status change indications (such is updating the stored data, col. 4, lines 39-58, col. 5, lines 1-8), a command console in the form of a central controller 12 for displaying the

indications, col. 3, lines 51-59, and a means 32 for transmitting status change indications to the central command console 12.

With respect to claim 4, see col. 7, lines 42-56.

With respect to claim 5, note LOGTIME for the evaluation of the status change for a sensor over time, see col. 7, lines 16-36.

With respect to claim 6, polling reads on the central controller commands to the remote logger units 14 and 16 for acquiring status change indications, see col. 3, lines 56-59, and col. 8, lines 41-60.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 7, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers.

See explanation of Powers above. Powers fails to state the term "fusion module" as recited in claim 1, "sensor fusion" as recited in claim 7, "sensor fusion device" as recited in claim 10.

It is note that as disclosed in applicant's specification, page 5, "fusion" is a term with software or program implications with respect to a sensor device.

The software or program operations with respect to the controller 50 of logger controller 30 functions or operates on the sensors in accordance with programming, see col. 4, lines 38 et seq., and col. 7.

It would have been obvious to one having ordinary skill in the art to equate the claimed "fusion" with software computer programming with respect to the sensor device in Powers since the term as defined by applicant is equated to software computer programming.

The recited airborne chemicals and/or biological agents would not involve patentable invention since the skilled artisan recognizes the numerous sensors that may

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be employed, such being a matter of choice, see any type of sensor in col. 4, lines 34-37 of Powers.

With respect to claim 2, the embodiment of figure 2 of Power is considered of unitary structure.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spriggs et al, Cephus, Everett, Jr. et al, and McElhattan et al show related surveillance systems that includes a CPU that monitors for status changes in plural sensors or remote devices and transmit these status changes to a central station for observation and possible control over the remote.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is (703) 305-4388. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wu Daniel can be reached on (703) 308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9052 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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DONNIE L. GROS LAND

Primary Examiner

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dlc   
June 16, 2003